

Government of the District of Columbia
ZONING COMMISSION



Zoning Commission Order No. 11'7
August 15, 1975

EMERGENCY ORDER

ORDERED:

Whereas: The District of Columbia Zoning Commission ordered a public hearing on Case No. 75-4, a proposed Massage Activities Text Amendment, which would control massage activities through the establishment of two definitions: therapeutic massage activities and massage establishments .

And Whereas: A public hearing in Case No. 75-4, for which notice was advertised in the Washington Star and Washington Post on June 1, 1975, and the D. C. Register on May 30, 1975, was conducted on July 2, 1975.

And Whereas: Citizen concern was expressed both prior to and at the public hearing on Case No. 75-4, that the proliferation of massage establishments be halted as soon as possible.

And Whereas: The Zoning Commission at its 673rd Session, held July 10, 1975, voted to direct its staff to submit a regulation to limit "sexual-orientated massage establishments) " to the C-3-B and C-4 zone districts only but not within 200 feet of a residential district.

And Whereas: Under the existing zoning regulations, masseurs are permitted as a matter of right in the C-2, C-3, C-4, C-M and M Districts.

And Whereas: The District of Columbia has in fact experienced, in recent months, a proliferation in many sections of the city of massage establishments, particularly sexually-oriented massage establishments, within low density commercial zones adjacent to residential zones, neighborhood schools and churches and similar institutions.

And Whereas: As of August 13, 1975, 21 licenses had been issued to massage establishments and 32 applications for such licenses were pending, and, as of that same date, 39 certificates of occupancy for massage establishments had been issued to massage establishments and 12 applications for certificates of occupancy were pending.

And Whereas: The location by zone district of massage establishments for which certificates of occupancy have either been issued or are pending, or of which there is no record of a certificate of occupancy having been applied for or granted for a massage establishment, as of August 13, 1975, is as follows:

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CERTIFICATES OF OCCUPANCY

<u>Zones</u>	<u>Is sued</u>	<u>Pending</u>	<u>No Record</u>	<u>Cancelled</u>
R-5-C			1	
R-5-D				
SP	1			
C-2-A	12			
C-2-B	1			
C-3-A	2			
C-3-B	12	1		
c - 4	11	4		
"C-R	1			
<hr/>				
TOTAL	39	12	3	1

* Zoning was C-M-2 when application was filed.

And Whereas: Massage activities, particularly those which may be sexually oriented, should not be conducted close to predominantly residential neighborhoods, but may be acceptable in more intense commercial zones.

And Whereas: The Zoning Commission at its 674th Session, August 14, 1975, found it appropriate, as a result of modifications to the text amendment advertised for public hearing in Case No. 75-4, to permit additional written public comment on the said text amendment.

And Whereas: No zoning regulation, or map, or amendment thereto may be adopted by the Zoning Commission until the Zoning Commission has held a public hearing, following notice thereon, and, after such public hearing, submitted such proposed regulation, map, or amendment to the National Capital Planning Commission for comment and review.

And Whereas: The National Capital Planning Commission has thirty days to submit its comments regarding any such regulation, map, or amendment after submission thereto,

And Whereas: Additional proliferation of massage establishments, as evidenced, to date, by the 32 pending applications for licenses and the

12 pending applications for certificates of occupancy, is a strong likelihood pending the adoption of a final order, and such proliferation may, therefore, nullify any action taken by the Zoning Commission to prevent such proliferation.

And Whereas: Section 1 of the Zoning Act (Act of June 20, 1938, 52 Stat. 797, as amended by Act of March 4, 1942, 56 Stat. 122) establishes the authority of the Zoning Commission "to promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia, "

And Whereas: Section 1-1505 of the District of Columbia Code authorizes the Zoning Commission to take emergency action for a period not to exceed 120 days "for the immediate preservation of the public peace, health, safety, welfare, or morals. "

Therefore: The Zoning Commission at its 674th Session, August 14, 1975, resolves that an emergency exists and that it is imperative that the Zoning Commission immediately amend the Zoning Regulations to establish the districts in which massage activities may be permitted as a matter of right and the districts in which massage activities may be permitted as special exceptions upon approval by the Board of Zoning Adjustment.

Notwithstanding any other provision of the Zoning Regulations, any establishment which has as a principal use the administration of

massages shall be a permitted use only in accordance with the following:

Now Therefore, the Zoning Commission hereby orders for a period not to exceed 120 days, from August 14, 1975, the following:

- I. A. Matter of Right. The principal use of administering massages is permitted as a matter of right in the C-3-B and C-4 Districts, provided that such is not located within 200 feet of any Residential District.
- B. Massages administered in hospitals, clinics for humans, nursing homes, public health facilities, personal care homes, offices of duly licensed nurses, physicians, surgeons, podiatrists, physical therapists, chiropractors, osteopaths, barbershops, beauty salons and bona fide health clubs in which massages are administered as a necessary accessory use to the principal use, or in facilities of athletic trainers or as contained in a course of study of a school leading to a professional license shall be permitted as an accessory use in any District in which the principal use is permitted.
- C. All other massage activities may be permitted in the C-2-A, C-2-B, C-3-A, C-3-B, C-4, M and C-M Districts

as special exceptions upon approval of the Board of Zoning Adjustment and are prohibited in the C-1 and more restrictive Districts.

II, Administration of Massages permitted as a Special Exception. The Board of Zoning Adjustment may permit the administration of massages as a Special Exception in the C-2-A, C-2-B, C-3-A, M and C-M Districts, and within 200 feet of a Residential District in the C-3-B and C -4 Districts, subject to the following conditions:

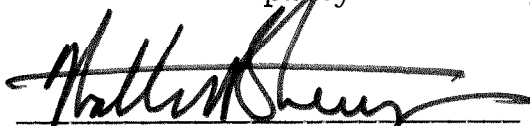
- A. Compatibility with other uses in the area.
- B. Such use will not be objectionable because of its effect on the character of the neighborhood or because of noise, traffic or other conditions.
- C. The impact on religious, educational and other institutional facilities located in the area.

III. The staff is directed as follows:

- A. Transmit a copy of this emergency order to the National Capital Planning Commission as a pro-

posed amendment to the Zoning Regulations pursuant to the provisions of Sec. 5-417, D.C. Code, 1973 ed. , Supp II.

- B Publish this emergency order forthwith in the D. C. Register and invite comments from the public on the adoption of this order as a permanent amendment to the Zoning Regulations. Said comments to be received in the offices of the Zoning Commission not later than 30 days after publication.
- C. Mail copies of the aforesaid publication to all persons who appeared at the July 2, 1975 public hearing or who submitted written comments pursuant to the notice of said hearing and to all persons or organizations who have applied for or have received certificates of occupancy for massage activities.

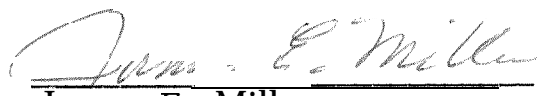

WALTER B. LEWIS


GEORGE M. WHITE

RUBY B. McZIER


RICHARD L. STANTON

Attested:


James E. Miller
Acting Executive Secretary